

STATE OF MICHIGAN  
COURT OF APPEALS

---

*In re* S. I. HOFF, Minor.

UNPUBLISHED  
February 18, 2016

No. 328748  
St. Joseph Circuit Court  
Family Division  
LC No. 2013-001055-NA

---

Before: HOEKSTRA, P.J., and METER and M. J. KELLY, JJ.

PER CURIAM.

Respondent mother appeals as of right an order terminating her parental rights to a minor child under MCL 712A.19b(3)(g) (failure to provide proper care or custody) and (j) (likelihood of harm if child returned to parent). We affirm.

Respondent first argues that the trial court clearly erred by finding statutory grounds to terminate her parental rights. To support termination, the trial court must find that at least one of the statutory grounds in MCL 712A.19(b)(3) has been established by clear and convincing evidence. *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). We review the trial court’s decision for clear error. *Id.* A finding is clearly erroneous if it leaves us with a definite and firm conviction that a mistake has been made. *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009).

Under MCL 712A.19b(3)(g), a trial court may terminate parental rights when “[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child’s age.” Respondent primarily focuses her argument on the latter part of this statutory ground, claiming that she would have been able to provide proper care for the child if the trial court gave her additional time. We disagree.

The child was removed from respondent’s care immediately after birth because the child tested positive for methamphetamine. Thereafter, respondent absconded from pending criminal charges and did not turn herself in to police for several months. By the time that respondent saw the child for the first time since removal, the child was already 16 months old. A witness testified that there was a “bonding issue,” and another witness testified that respondent never demonstrated an ability to effectively parent the child, given the child’s special needs. Also, at the time of termination, respondent did not have stable housing, and she had not yet demonstrated an ability to maintain sobriety outside of supervision from jail or probation.

The record does not support that respondent would be able to provide proper care and custody to the child within a reasonable time considering the child's age. *Id.* Respondent still had several months before she would complete probation. Her ability to improve after completing probation was speculative at best. Although respondent generally complied with services while in jail and on probation, she needed to show that she could maintain sobriety and obtain stability on her own. She also needed to obtain appropriate housing and show that she could parent the child in light of the child's special needs. However, and significantly, it would not be fair to make the child wait a long period for respondent to improve. See *In re Dahms*, 187 Mich App 644, 648; 468 NW2d 315 (1991). Because respondent's ability to parent the child within a reasonable time was merely speculative, the trial court did not clearly err in terminating respondent's parental rights under MCL 712A.19b(3)(g). Because we conclude that this one ground for termination existed, we need not consider the additional ground upon which the trial court based its decision. *HRC*, 286 Mich App at 461.

Respondent also argues that termination was not in the best interests of the child. To properly terminate parental rights, the trial court must find by a preponderance of the evidence that termination is in a child's best interests.<sup>1</sup> *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). We review the trial court's decision for clear error. *HRC*, 286 Mich App at 459; *VanDalen*, 293 Mich App at 142. Factors to be considered include "the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *In re Olive/Metts*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012) (citations omitted).

The record supports that the child had a secure bond with her foster parents, that they had shown a high level of "commitment, empathy, and hard work" in caring for the child, and that they were open to adoption. See *In re White*, 303 Mich App 701, 714; 846 NW2d 61 (2014). Additionally, the evidence showed that respondent was not bonded with the child, and it failed to adequately demonstrate that respondent would be capable of providing the child with stability and permanency in the near future. *In re Frey*, 297 Mich App 242, 248-249; 824 NW2d 569 (2012). Notwithstanding respondent's need to maintain her own sobriety and stability, the child also had significant needs due to prenatal drug exposure. Significantly, testimony at the termination hearing indicated that returning the child to respondent would be "devastating" for the child and would impair her development. The trial court did not clearly err in finding that it was in the best interests of the child to terminate respondent's parental rights.

Affirmed.

/s/ Joel P. Hoekstra  
/s/ Patrick M. Meter  
/s/ Michael J. Kelly

---

<sup>1</sup> Respondent mentions that the trial court "based its finding on the best interest test by the clear and convincing evidence standard, rather than by just a preponderance of the evidence." We fail to see how this has any impact on respondent's appeal.